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May 10, 1990

VIA TELECOPIER

Ms. Beth A. Henning
Assistant Regional Counsel
United States Environmental
Protection Agency
Region 5
230 S. Dearborn Street
Chicago, Illinois 60604

Re: Section 106 Administrative Order
Regarding Albion-Sheridan Township Landfill

Dear Beth:

This letter will follow-up our telephone conversation this afternoon regarding the above-referenced order.

Paragraph 3 of the order requires the respondents to select a contractor to perform the work required under the order and to notify U.S. EPA of the name of the contractor within three days after the effective date of the order. As I indicated this afternoon, the three-day time limit for contractor selection is somewhat illogical given that the respondents have ten days after the effective date, or until May 17, to notify U.S. EPA regarding their intent to comply with the order.

Eagle-Picher has not yet determined whether it will comply with the order, although I can assure you that our evaluation of Eagle-Picher's position in this regard is greatly complicated by the fact that U.S. EPA may name another respondent to the order whose identity is being withheld from us.

US EPA RECORDS CENTER REGION 5



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If Eagle-Picher determines that it will comply with the order, Eagle-Picher would intend that the work required under the order be performed by either Great Lakes Environmental Services, Inc. or OH Materials. You stated this afternoon that a designation of two possible contractors, from which a final selection will be made, will not constitute a violation of Paragraph 3 of the order.

Eagle-Picher reserves the right to notify U.S. EPA at any time on or before May 17, 1990, whether it intends to comply with the order. Eagle-Picher's selection of the contractors identified in this letter is being communicated to you solely for the purpose of complying with the three-day time limit under Paragraph 3.

As we discussed this afternoon, the order contemplates a contractor selected by the respondents collectively. Obviously, however, meaningful discussion among the respondents is impossible given the three-day time limit imposed under Paragraph 3 of the order.

I would reiterate my request that U.S. EPA reconsider the time limitations imposed under the order, including the May 17 deadline for notice of intent to comply. In light of our conversation, it appears very likely that Eagle-Picher will be required to decide whether to comply with the order without any information as to the identity of the additional respondent, its connection to the Albion-Sheridan site or its intentions with respect to the order. It would be unreasonable and unfair to require any of the current remaining respondents to make this important decision without adequate opportunity to confer with the additional respondent.

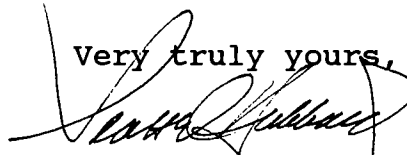
As to the addition of parties to the list of respondents to the order, we believe that the City of Albion should be named as a respondent. The Albion-Sheridan Township Landfill was operated pursuant to a contract between the Stevicks and the City of Albion under which the City exercised control of the landfill operation in several respects. A copy of the City's contract was enclosed with Mr. Shannon's letter to you dated April 26, 1990. The site was operated as a municipal landfill that accepted both industrial and municipal wastes. Accordingly, in light of the City's authority and control with respect to the landfill operation, the City should be named as a respondent to the order.

We look forward to receiving the additional analytical data you are forwarding with respect to the site. If you have

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any questions or would like to discuss this matter, please give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott D. Hubbard", written over the typed name.

Scott D. Hubbard

SDH:aan

cc: Eagle-Picher Industries, Inc.